IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRD DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO : 3221 of 2004

AND

WRIT PETITION No. 3103 of 2004

W.P.No. 3221 of 2004

Between:

C.V.Ramachandra Reddy, S/o.Sri.Buchi Reddy,
Panchayat Raj Department, Hyderabad.

..... PETITIONER

AND

1 The State of Andhra Pradesh, rep. by Secretary to Government, Panchayat Raj & Rural Development
Department, Secretariat, Hyderabad.
2 The Secretary to Government, General Administration Department, Secretariat, Hyderabad.
3 The Engineer in Chief, Panchayat Raj Department, Government of Andhra Pradesh, Hyderabad.
4 Sri.M.Subba Rao, S/o. Sri Pitchaiah,
Panchayat Raj Department, Erramanzil, Hyderabad. C/o.Engineer in Chief, Panchayat Raj Department,
Erramanzil, Hyderabad, Andhra Pradesh.
5 Sri.A.Narasimha Swamy, S/o. Sri.Chettiah,
Panchayat Raj Department, Erramanzil, Hyderabad. C/o.Engineer in Chief,

Panchayati Raj Department,
Erramanzil, Hyderabad, Andhra Pradesh.
6 Sri.G.Krishnamurthy, S/o. Sri.Dasaradhudu,
Panchayat Raj Department, Erramanzil, Hyderabad. C/o.Engineer in Chief, Panchayati Raj Department,
Erramanzil, Hyderabad, Andhra Pradesh.
7 Sri A.V.Subba Reddy, S/o.Sri Peddivenkat Reddy,
Panchayat Raj Department, Erramanzil, Hyderabad. C/o.Engineer in Chief, Panchayati Raj Department,
Erramanzil, Hyderabad, Andhra Pradesh.
8 Sri K.Dasarathamaiah, Chief Engineer, Panchayat Raj Department, Erramanzil, Hyderabad.
C/o.Engineer in Chief, Panchayati Raj Department, Erramanzil, Hyderabad, Andhra Pradesh.
9 Sri K.Somanatha Sastry, S/o.Sri K.L.Narasimham,
Panchayat Raj Department, Erramanzil, Hyderabad. C/o.Engineer in Chief, Panchayati Raj Department,
Erramanzil, Hyderabad, Andhra Pradesh.
10 SriM.Subrahmanyam Reddy, S/o.Sri Sidda Reddy,
Panchayat Raj Department, Erramanzil, Hyderabad. C/o.Engineer in Chief, Panchayati Raj Department,
Erramanzil, Hyderabad, Andhra Pradesh.
11 Sri B.Raja Rao, S/o.Sri Laxmaiah, Executive Engineer,
Panchayat Raj Department, Erramanzil, Hyderabad. C/o.Engineer in Chief, Paqnchayat Raj Department
Erramanzil, Hyderabad, Andhra Pradesh,
12 Sri G.Rama Naidu, S/o.Sri Reddappa Naidu,
Panchayat Raj Department, Erramanzil, Hyderabad. C/o. Engineer in Chief, Panchayat Raj Department,
Erramanzil, Hyderabad, Andhra Pradesh.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to issue an order or writ preferably in the nature of Writ of Mandamus Declare the orders and judgment of the Hon'ble APAT dated 16-8-2001 in Rev Ma No.1339/2001 in O.A.No.6419/96and consequential orders passed in O.A.No.6419/1996 dated 20-4-2001 also as illegal and contrary to law and consequently set aside the same as per the orders of this Court in W.P.No.14246/2001 dated 3-8-2001 and consequently set aside the same as per the orders of this Hon’ble Court in W.P.No. 14246 of 2001, dated: 03.08.2001 and consequently hold G.O.Ms.No. 421 PR dated 07.10.1996 as illegal and contrary to law and consequently direct the official respondents to prepare the zonal seniority list of Deputy Executive Engineers based on the revised dates of Regularization of AEE under G.O.Ms.No. 647, dated: 14.09.1979 and also integrated seniority list of DEE list by placing the persons under G.O.Ms.No. 647 below the petitioner and regular appointees irrespective of their positions in their respective zones

Counsel for the Petitioner:DR.K.LAKSHMINARASIMHA

Counsel for the Respondents No.1 to 3: GP FOR PANCHAYAT RAJ & RURAL DEV.

WRIT PETITION NO : 3103 of 2004

Between:

C.V. Ramachandra Reddy
S/o. Sri Buchi Reddy, Chief Engineer [Retd.] Panchayat Raj Department, Hyderabad.

..... PETITIONER

AND

1 The Special Chief Secretary to Government, Panchayat Raj & Rural Development,
Secretariat, Hyderabad.
2 The Principal Secretary to Government, Panchayat Raj & Rural Development Department, Secretariat,
Hyderabad.
3 The Secretary to Government, GAD Department, A.P.Secretariat, Hyderabad.
4 The Engineer in Chief
Panchayat Raj Department, Government of A.P., Hyderabad.
5 Sri V.Prabhu, Engineer-in-Chief, Panchayat Raj Department, Hyderabad.
6 Sri K. Martin, Chief Engineer,

Panchayat Raj Department,

Erramanzil, Hyderabad.
7 Sri M. Subba Rao, Chief Engineer

Panchayat Raj Department,
Erramanzil, Hyderabad.
8 Sri G. Rama Naidu, Chief Engineer

Panchayat Raj Department,
Erramanzil, Hyderabad.
9 Sri K. Venkat Setty, Chief Engineer

Panchayat Raj Department,
Erramanzil, Hyderabad.
10 Sri Ghanneswara Rao, Chief Engineer

Panchayat Raj Department,
Erramanzil, Hyderabad.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to issue an order or writ preferably in the nature of Writ of mandamus declare the orders and judgments of the APAT dated 16.8.2001 in Rev. MA. No.1315 of 2001 in OA. NO. 4465/2000 and conseqeutnly orders passed in OA.No.4465/200 dated 20.4.2001 also as illegal and contrary to law and consequently set aside the same as per the orders of this Court in W.P.No.14246/2001 dated 3.8.2001.

Counsel for the Petitioner:DR.K.LAKSHMINARASIMHA
Counsel for the Respondent No.: GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court at the admission stage made the following :

COMMON JUDGMENT:

(per G. Bikshapathy J)

1. The Writ Petition No. 3221 of 2004 is filed seeking writ of mandamus declaring the Orders passed by the Andhra Pradesh Administrative Tribunal dated: 16.8.2001 in Review M.A.No. 1339 of 2001 in O.A.NO. 6419 of 1996 and consequential Orders passed in O.A.NO. 6419 of 1996 dated: 20.4.2001 as illegal and contrary to law and set aside the same as per the Orders passed by this Court in W.P.No. 14246 of 2001, dated: 3.8.2001 and for consequential relief, while W.P.No. 3103 of 2004 was filed challenging the Order passed by the Andhra Pradesh Administrative Tribunal dated: 16.8.2001 in Rev.M.A.No. 1315 of 2001 in O.A.NO. 4465 of 2000 and consequential Orders passed in O.A.NO. 4465 of 2000, dated: 20.4.2001 as illegal and contrary to law and set aside the same as per the Orders passed by this Court in W.P.No. 14246 of 2001, dated: 3.8.2001 and for consequential relief.

2. The petitioner was initially appointed as Deputy Executive Engineer by direct recruitment in the year 1978 through Public Service Commission. He filed along with others O.A.NO. 74325 to 74327 of 1990 before the tribunal for finalisation of the seniority. However, when the matter was pending, when the authorities were making promotions on in charge arrangement basis, the petitioner along with others again filed O.A.NO. 8318 to 8420 of 1991. The said O.As. were allowed by the tribunal on 24.4.1992 directing the Government to prepare final seniority list. In the category-wise of Executive Engineer and Deputy Executive Engineer. Accordingly, petitioners and others were promoted as Superintending Engineer in October, 1996. When he completed more than three years and became eligible for the post of Chief

Engineer and the Government issued G.O.Ms.No. 421, dated: 7.10.1996 and consequential Memo dated: 8.10.1996 alleged to be in contravention of the Orders of the tribunal passed earlier, the Petitioner filed O.A.NO. 6419 of 1996 before the tribunal. While the matters were pending before the tribunal, when the Government was making temporary promotions, he filed another O.A.NO. 2650 of 2000 seeking directions to prepare and publish seniority list of Superintending Engineers and thereafter to make promotions. When all these matters are pending, unofficial respondents were promoted as Chief Engineers and therefore, the petitioner again filed another O.A.NO. 4465 of 2000. The above applications and other various cases were heard by the tribunal and a common Order passed in O.A.NO. 2440 of 2000 and batch dismissing the O.As. by Orders dated: 20.4.2001. However, it appears that the petitioners filed Review M.A.No. 1339 of 2001 in O.A.NO. 6419 of 1996 and Rev. M.A.No. 1315 of 2001 in O.A.NO. 4465 of 2000, which were pending. Aggrieved by the Orders passed by the tribunal dated: 20.4.2001, the persons who were similarly placed on par with the petitioners filed Writ Petitions before this Court. This Court by an Order dated: 3.8.2001 allowed all the Writ Petitions on the ground that Sri N.V.H.S. Sastry ought not to have heard the cases along with other members as he was the Secretary to Government at the relevant time and who was instrumental in deciding the issues. Therefore, again the matters were remanded to the tribunal for fresh consideration without participation of Sri N.V.H.S. Sastry. But, however, the review petition filed by the petitioner was dismissed as infructuous by an Order dated: 16.8.2001. At this point of time, the petitioner did not take any action. The Division Bench, after the remand by this Court, heard the matters as a batch and allowed the O.As. by common Order dated: 19.4.2002 and quashed G.O.Ms.No. 421. Aggrieved by that, private respondents filed W.P.No. 9326 of 2002 and batch and interim stay was granted by this Court and finally this Court by an Order dated: 23.9.2002 set aside the earlier Orders of the tribunal holding that the tribunal ought not to have heard all the cases when no Writ Petitions were filed. But, however, the liberty was granted to those persons whose review were dismissed for taking appropriate steps. Therefore, the present Writ Petitions have been filed challenging the Order passed by the tribunal in Rev. M.P.No. 1339 of 2001, dated: 16.8.2001

dismissing the M.P. as infructuous.

3. The learned counsel for the petitioner submits that the learned tribunal ought not to have dismissed the Rev.M.P. and that the matter ought to have been heard on merits. We find much water had been flown in the seniority duet. We also find that the petitioner has since been retired from service as a Chief Engineer, when the review petition was dismissed on 16.8.2001, it is not understood as to why the petitioner has not filed Writ Petition challenging the dismissal of the review petition as infructuous and no possible explanation is forthcoming except stating that the other petitioners who are similarly situated persons carried the matter in Writ Petition and the said Writ Petitions were allowed and the matter was remitted back to the tribunal for fresh consideration. Obviously the petitioner carried the matter half way through and thereafter started waiting the result in similar matters filed by other officers. The petitioner cannot be said to be vigilant in prosecuting his case. However, we notice that the petitioner cannot be said to put any prejudice on account of the dismissal of the review. In the Writ Petitions, which were allowed by this Court on 19.4.2001, the petitioner has been arrayed as respondent and when they are remitted back for fresh consideration, it is always open for him to contest and to protect his seniority. It is also to be noted in this regard and when once the principle settled by the tribunal or by the higher Courts and the same was sought to be implemented by treating it as judgment in rem, it does not preclude the authorities from implementing the same in respect of all the persons, who were covered by the principles irrespective of the fact whether they are parties to the earlier proceedings or left the matter half way through. More over, in the instant case, the petitioner has since been retired from service and question of causing any prejudice to in service Officers does not arise. Even if any principle is applied to the petitioner, which may confer benefit of promotion if any, it would be only without actually affecting the interest of the other serving officers. Thus, we find it is not a fit case for admission.

4. Accordingly, the Writ Petitions are dismissed at the admission stage, subject to

the above observations.

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G.BIKSHAPATHY, J

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B. SESHASAYANA REDDY, J

03-09-2004

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L.R. COPY TO BE MARKED: No

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SECTION OFFICER

To

1. One fair copy to The Hon'ble Sri Justice G.Bikshapathy (for His Lordship's kind perusal)

2. One fair copy to The Hon'ble Sri Justice B.Seshasayana Reddy (for His Lordship's kind perusal)

3 The State of Andhra Pradesh, rep. by Secretary to Government, Panchayat Raj & Rural Development Department, Secretariat, Hyderabad.

4. The Secretary to Government, General Administration Department, Secretariat, Hyderabad.

5. The Engineer in Chief, Panchayat Raj Department, Government of Andhra Pradesh, Hyderabad.

6. The Special Chief Secretary to Government, Panchayat Raj & Rural Development, Secretariat, Hyderabad.

7. The Principal Secretary to Government, Panchayat Raj & Rural Development Department, Secretariat, Hyderabad.

8. The Engineer in Chief Panchayat Raj Department, Government of A.P., Hyderabad.

9. Copy to G.P. for Panchyat Raj & Rural Development

10. The A.P. Administrative Tribunal, Hyderabad.

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